

# The Commonwealth of Massachusetts

# DEPARTMENT OF PUBLIC UTILITIES

D.T.E./D.P.U. 04-39-A

October 1, 2008

Petition of Bay State Gas Company for approval by the Department of Public Utilities of its Revised 2005 through 2009 Gas Energy Efficiency Plan.

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# D.T.E./D.P.U. 04-39-A

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FOR: THE LOW-INCOME WEATHERIZATION AND FUEL ASSISTANCE NETWORK, MASSACHUSETTS COMMUNITY ACTION PROGRAM DIRECTORS ASSOCIATION, INC., AND LOW-INCOME ENERGY AFFORDABILITY NETWORK

<u>Intervenors</u>

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# I. <u>INTRODUCTION</u>

On March 30, 2004, Bay State Gas Company ("Bay State" or "Company") filed with the Department of Public Utilities ("Department") a request to continue, on an interim basis, its existing energy efficiency programs for the period May 1, 2004, through April 30, 2009. This matter was docketed as D.T.E./D.P.U. 04-39. On August 12, 2004, a settlement agreement ("Settlement") between the Department of Energy Resources ("DOER"), the Low-Income Weatherization and Fuel Assistance Network, Massachusetts Community Action Program Directors Association, Inc., the Low-Income Energy Affordability Network ("LEAN"), and the Department's Settlement Intervention Staff was filed with the Department. On September 13, 2004, the Department approved the Settlement. Bay State Gas Company, D.T.E. 04-39 (2004).

In a July 25, 2008 Letter Order, the Department directed all Massachusetts energy efficiency Program Administrators¹ to submit proposals to increase spending for residential heating programs for the 2008 winter season, stating that "there is an urgent need to expand funding for existing residential gas and electric energy efficiency programs in order to respond to the potential for very high heating costs in the coming months." Request to Increase

Funding for Residential Energy Efficiency Programs, Letter Order (July 25, 2008) ("Letter

Program Administrators are those entities that administer energy efficiency programs, including distribution companies and municipal aggregators. Energy Efficiency Guidelines § 2.

Order").<sup>2</sup> The Company submitted its proposal to increase funding for residential energy efficiency programs on August 15, 2008 ("Revised Plan").

The Department requested comments on all Program Administrators' Revised Plans by August 25, 2008. Request to Increase Funding for Residential Energy Efficiency Programs, Hearing Officer Memorandum (August 1, 2008). Comments were received from Associated Industries of Massachusetts ("AIM"), the Attorney General of the Commonwealth of Massachusetts ("Attorney General"), the Conservation Law Foundation ("CLF"), DOER, Environment Northeast ("ENE"), the LEAN, and Wal-Mart Stores East, L.P. ("Wal-Mart"). The Department requested reply comments on all Program Administrators' Revised Plans by September 5, 2008. Request to Increase Funding for Residential Energy Efficiency Programs, Hearing Officer Memorandum (August 27, 2008). Reply comments were received from Bay State, ENE, LEAN, and The Energy Consortium ("TEC"). The evidentiary record includes two responses to information requests and direct testimony.<sup>3</sup>

The Letter Order, which was sent to Massachusetts electric and gas energy efficiency Program Administrators, was issued in response to a request made to the Department by DOER in a letter dated July 16, 2008.

On its own motion, the Department moves into the evidentiary record of this proceeding the Company's responses to Information Requests DPU 1-1 and DPU 1-2 and the direct testimony of Derek M. Buchler ("DMB-1").

# II. 2008 REVISED ENERGY EFFICIENCY PLAN

#### A. Introduction

In the Department's July 25, 2008 Letter Order at 1, we directed the Program Administrators to submit a proposal "that will allow for the implementation of the maximum achievable level of cost-effective expenditures on residential heating programs for the remainder of 2008." In support of their proposals, the Department directed the Program Administrators to submit the following information: (1) the energy efficiency programs that are targeted at residential heating end uses; (2) the additional dollars the company projects it can spend in a cost-effective manner; (3) the constraints that limit the additional dollars the company projects it could spend cost-effectively; (4) the additional number of residential customers that will be served; (5) the additional therm savings that will be expected to be achieved; (6) the dollar savings on monthly bills that additional participants will be expected to realize; (7) the effect on the cost-effectiveness of the applicable programs; and (8) the company's proposed mechanism for recovery of incremental costs. Id. at 2.

# B. Revised Budget

# 1. Budget Increases

The Company proposes to increase spending by \$6,951,836 on all currently operating programs (Exh. DPU 1-2 (B)). Bay State proposes to increase spending through December 31, 2009 (Exh. DMB-1, at 5).

#### 2. Funding Constraints

The Company states that additional expenditures other than those proposed in its Revised Plan are constrained by program delivery infrastructure. The Company indicates that there are not enough qualified contractors or other necessary infrastructure to maintain quality and safety standards for any additional expansion of programs (id. at 15).

# 3. Additional Customers

The Company proposes to increase its target number of participants by 825 (Exh. DPU 1-2 (B)).

#### 4. <u>Annual Therm Savings</u>

The Company projects an increase in its target annual million British thermal units ("MMBtu") savings of 32,674 MMBtu (Exh. DPU 1-2 (B)).

#### 5. Customer Savings

The Company estimates that a residential participant in the R-3 rate class will save approximately \$27.67 per month (Bay State Reply Comments at 4).

# 6. Cost-Effectiveness

The Company states that additional expenditures will increase rebates for well-established programs (Exh. DMB-1, at 15-16). The Company states that increasing rebates will not adversely affect cost-effectiveness (id.).

# 7. <u>Cost Recovery</u>

The Company proposes to recover the additional costs through the conservation charge component of the cost of gas adjustment clause and the applicable local distribution adjustment factor ("LDAF") (id. at 12-13).

#### 8. Additional Program Changes

In addition to increasing program budgets, the Company proposes several program changes. In the residential sector, the Company proposes to make the following changes:

(1) introduce a combined high efficiency space and water heating rebate; (2) introduce a high efficiency storage water heating rebate; (3) increase incentives for the residential weatherization program; (4) introduce an air sealing measure; and (5) modify the current heat loan offer to enable customers to receive a zero percent heat loan as well as incentives and rebates (Revised Plan, Sch. 2). In the low-income sector, the Company proposes to:

(1) introduce a micro-combined heat and power pilot initiative and (2) increase the eligibility level from 60 percent of the Commonwealth's median income to 80 percent of the Commonwealth's median income to 80 percent of the

The Company proposes to start this program on January 1, 2009.

The Company proposes to increase the financial incentive to homeowners on the Company's residential heating rate from 50 percent to 75 percent. The Company proposes to increase the financial incentive to tenants on the Company's residential heating rate from 50 percent to 100 percent provided at least one unit is on the Company's low income heating rate. The maximum incentive will increase from \$1,500 to \$2,000.

sector, the Company proposes to make the following changes: (1) introduce a combined high efficiency space and water heating rebate; (2) introduce a high efficiency storage water heating rebate; (3) move from a 50 percent financial incentive level to a 75 percent financial incentive level for small C&I customers; (4) move from a 50 percent financial incentive level to a 75 percent financial incentive level for master-metered multifamily customers; and (5) move from a 50 percent financial incentive level to a 75 percent financial incentive level for all state and municipal customers regardless of whether they are in the small or large C&I customer class (id. Sch. 4). III. COMMENTS

#### A. Introduction

The majority of comments were of a general nature, applicable to most or all of the Program Administrators' revised gas and electric plans. In addition, certain comments were specific to an individual Program Administrator's revised plan. General and company-specific comments are each summarized below.

#### B. General Comments

#### 1. Program Budgets

AIM argues that the Department's request for increased funding for energy efficiency programs is an overreaction to a temporary rise in energy prices and, accordingly, that any increased spending should be delayed until 2009 (AIM Comments at 1-2). While the Attorney General does not challenge the need for increased energy efficiency funding to reduce low-income and residential customer heating bills this winter, she argues that the proposals fail

to provide the detailed information required by the Department and, therefore, raise several substantive and procedural issues (Attorney General Comments at 3). For example, the Attorney General asserts that most proposals do not provide detailed budget increases, as required by the Department (id. at 4). Without such information, the Attorney General argues that the Department cannot ascertain where the additional funds will be spent, the extent that customers will benefit, or whether all proposed programs will be cost-effective (id. at 7).

DOER states that electric Program Administrators have proposed Revised Plans with significant increases of at least 30 percent over 2008 budgets for residential and low-income programs. However, DOER states that gas energy efficiency proposals vary widely (DOER Comments at 3). DOER argues that all gas proposals should increase budgets at least as much as electric proposals and that all cost-effective residential program budgets should be increased (id. at 3).

LEAN agrees that an immediate increase in energy efficiency program budgets is necessary. Furthermore, LEAN contends that the Revised Plans must be approved as soon as possible, otherwise the Program Administrators will be unable to implement the programs for this winter (LEAN Comments at 1-2). TEC notes that the cost to advance known projects will be minimal and will not diminish program cost-effectiveness and, therefore, recommends that Program Administrators advance current heating contracts by paying contractors overtime or a performance incentive to complete projects as soon as possible (TEC Reply Comments at 2).

ENE states that, by its calculations, there is a large spread in proposed budget increases among the Program Administrators (ENE Comments at 4). So that the revised plans are directly comparable, ENE recommends that the Department or DOER require the Program Administrators to submit identical spreadsheets that include proposed spending levels by customer class on a per customer and per unit of energy sold basis (id. at 3-4). ENE also states that, in some revised plans, budgets appear to be reduced and that the Department should not approve any reductions without good reason (id. at 4).

# 2. Funding Mechanisms

The Attorney General contends that many of the electric proposals contain insufficient detail about the sources of additional funding. The Attorney General states that, in order for the Department to approve funding mechanisms that collect additional money from customers, the Department must consider the effect on residential and commercial customers and the availability of private or public funds (Attorney General Comments at 13, citing St. 2008 c. 169, § 11). In addition, the Attorney General argues that any new reconciling rate mechanism designed to recover incremental energy efficiency program costs must be subject to a hearing before the Department under G.L. c. 164, § 94 to establish just and reasonable rates (id. at 14-15, citing Consumers Organization For Fair Energy Equity, Inc. v. D.P.U., 368 Mass. 599, 606 (1975)). Wal-Mart also asserts that any request to approve a funding mechanism for incremental energy efficiency expenditures requires a thorough investigation that includes discovery and an evidentiary hearing (Wal-Mart Comments at 2-3). CLF

suggests that any new energy efficiency tariffs or reconciling mechanisms should be considered by the Department in a separate proceeding (CLF Comments at 1-2).

DOER states that proposals to recover lost based revenues through various mechanisms is a departure from current practice that must be thoroughly reviewed by the Department (DOER Comments at 3). Finally, LEAN states that significant consumer savings can only occur if energy efficiency measures are fully funded and that funding is allowed to rollover from year to year (LEAN Comments at 2).

# 3. Scope of Proposed Energy Efficiency Programs

The Attorney General states that the revised plans go beyond the scope of the Department's directives. First, the Attorney General states that some revised plans include spending increases for programs that are not designed to reduce heating costs for residential customers (Attorney General Comments at 4-5).<sup>6</sup> In addition, the Attorney General states that many proposals include new programs and program changes (<u>id.</u> at 11). The Attorney General

For example, the Attorney General states that nearly all gas companies and some electric companies propose to change the income eligibility level from 60 percent to 80 percent of the Commonwealth's median income for low-income energy efficiency programs (Attorney General Comments at 11). The Attorney General argues that the low-income eligibility issue is currently the subject of <a href="Investigation into Issues Affecting Low-Income Customers">Investigation into Issues Affecting Low-Income Customers</a>, D.P.U. 08-4, and, therefore, should not be considered by the Department in the instant proceeding (<a href="id">id</a>. at 11-12). In contrast, LEAN contends that there is no valid reason to deny proposals that make energy efficiency measures more affordable to households with incomes between 60 and 80 percent of the median income (LEAN Reply Comments at 2). In its Revised Plan, Bay State proposes to change the income eligibility level for its low-income gas programs (Revised Plan, Exh. 3).

argues that such program changes and new programs require more investigation than is allowed for in this expedited review (<u>id.</u> at 12). Accordingly, the Attorney General recommends that the Department deny any request to implement new programs or changes to existing programs (<u>id.</u>). Alternatively, the Attorney General suggests that Program Administrators could implement new pilot programs and other initiatives without Department approval if shareholders agree to fund the programs (<u>id.</u>).

Unlike the Attorney General, LEAN supports increased budgets for energy efficiency measures that are not directly related to heating (LEAN Reply Comments at 2). LEAN argues that any measure that reduces utility bills will help customers this winter (id.).

DOER states that, despite the Department's focus on approving only residential heating programs, it should consider allowing "stop-gap" proposals that address large unmet demand in cost-effective C&I programs (DOER Comments at 3). However, AIM contends that funding for C&I programs should not be increased this winter because the lead time to implement these programs is long (AIM Comments at 3). Rather, AIM suggests that C&I programs should be considered for budget increases in 2009 (id.). Finally, CLF agrees that proposals to increase funding for C&I programs should be deferred to proceedings on the 2009 energy efficiency plans (CLF Comments at 1).

#### 4. Performance Incentives

The Attorney General suggests the Program Administrators forgo shareholder incentives to help customers this winter (Attorney General Comments at 11). DOER states

that increased spending levels may necessitate adjustments to shareholder incentives to avoid inappropriate gains by Program Administrators (DOER Comments at 3).

# C. Company-Specific Comments

ENE states that Bay State's proposed expansion should be more detailed (ENE Comments at 6). ENE is also concerned that low-income programs are not expanding (id.). ENE recommends that Bay State work with community agencies in order to maximize investment levels by the end of the year (id.).

The Attorney General argues that Bay State's Revised Plan increases C&I budgets by 32 percent through December 31, 2009, a funding increase that is not related to residential heating costs. The Attorney General also argues that the Company's Revised Plan does not contain all information that is necessary for the Department to conduct its review (Attorney General Comments at 5-6).

In response to the Attorney General's comments regarding insufficient detail in the revised plans, Bay State provided additional information in its reply comments (Bay State Reply Comments at 3-5). Specifically, Bay State provided estimated dollar savings for gas customers per month (id. at 4). Also, Bay State argues that it proposes a continuous plan through December 31, 2009, instead of May 1, 2009, in order to address small C&I and residential heating needs (id. at 1-2).

# IV. ANALYSIS AND FINDINGS

#### A. Introduction

In order for the increased spending to provide benefits to customers during the 2008 winter season, it is necessary for the Company to accelerate implementation of cost-effective energy efficiency programs as soon as possible. Nevertheless, the Department is obligated to review the programs, applying its criteria from the Energy Efficiency Guidelines, which require that the Company's energy efficiency programs be cost-effective. Energy Efficiency Guidelines §§ 4.2.1(a), 6.2.

An energy efficiency program is deemed cost-effective if its benefits are equal to or greater than its costs, as expressed in present value terms. The Department evaluates program cost-effectiveness using the Total Resource Cost test, which considers the costs and benefits to both the energy system and the participating customers. <u>Id.</u> at § 3. Energy system costs are comprised of two components: (1) Program Administrator costs, including costs to develop, plan, administer, implement, market, monitor, and evaluate programs; and (2) a performance-based shareholder incentive. <u>Id.</u> at § 3.2.2. Program participant costs include all costs incurred by customers as a result of their participation in the programs, net of company rebates and other incentives. Id. at § 3.2.3.

#### B. Revised Plan

The Company proposes to increase spending on all of its programs (Exh. DPU 1-2). The Company did not update its benefit/cost ratios, stating that additional expenditures made to increase the rebates in programs will not affect benefit/cost ratios (Exh. DBM-1, at 15-16).

In addition to increased program spending, the Company proposes: (1) to introduce a new micro-combined heat and power pilot initiative; (2) to increase the low-income eligibility level from 60 percent of the Commonwealth's median income to 80 percent of the Commonwealth's median income; (3) to introduce a residential and commercial high efficiency storage water heating rebate program; (4) to introduce a residential and commercial combined high efficiency space conditioning and water heating units program; and (5) to introduce an air sealing measure (Revised Plan, Schs. 2-4).

The Department's July 25, 2008 Letter Order was silent regarding whether we would allow Program Administrators to make changes to program designs for the remainder of 2008. The Department generally encourages the adoption of program design changes that improve the efficiency and cost-effectiveness of the delivery of energy efficiency services to customers. However, in light of the need to increase spending on residential heating programs as soon as feasible, the Department must limit the types of program design changes that we will allow at this time. Accordingly, we will allow only those program design changes that (1) are not a significant departure from current program designs, and (2) will have no effect on the program's cost-effectiveness.

The Company's proposed micro-combined heat and power pilot initiative, air sealing measure, high efficiency storage water heating rebate program, and the combined high efficiency space conditioning and water heating units program represent significant departures from current program designs. These programs are new measures and the Revised Plan lacks sufficient information on the programs' cost-effectiveness. Accordingly, the Department will not approve implementation of these programs at this time.

The Company's proposal to change the eligibility criteria for participation in its low-income single family program is also a significant departure from current program design. While such a change may ultimately be found appropriate, it cannot be adopted without sufficient review and input from the relevant efficiency stakeholders. Accordingly, the Department will not approve this proposed change at this time.

Further, the Company's Revised Plan proposed funding increases to all programs, including C&I, through December 31, 2009 (Exh. DMB-1, at 11). This proposal is not consistent with the Department's directive to propose funding increases for residential energy efficiency programs through the remainder of 2008. Accordingly, the Department will not approve any changes to the Company's C&I programs for the 2008 winter heating season nor can we approve any budget increases for the period of May 1, 2009, through December 31, 2009.

In regards to the Attorney General's statement that the Company did not provide sufficient information in its Revised Plan, the Company subsequently submitted responses to

information requests and additional information in its reply comments to supplement its original filing. In total, we find that the Company has provided sufficient information to enable the Department to review and assess whether the Company's energy efficiency programs in the Revised Plan are cost-effective.

With the exception of the micro-combined heat and power pilot initiative, the air sealing measure, the high efficiency storage water heating rebate program, the combined high efficiency space conditioning and water heating units program, the proposed change in its low-income eligibility criteria, the proposed C&I budget increases, and proposed budget increases for calender year 2009, the Department concludes that, based on the information included in its Revised Plan, reply comments, and responses to information requests, the Company (1) satisfied the requirements set forth in our July 25, 2008 Letter Order, and (2) sufficiently demonstrated the cost-effectiveness of the programs for which it proposes to increase spending. Therefore, we direct the Company to submit a compliance filing, within seven days of the date of this Order, that includes revised information accounting for changes in cost-effectiveness due to the retention of the existing income eligibility level and budgets reflecting the removal of the programs, and C&I and 2009 budget increases not accepted by the Department.

The Company has requested that it recover its costs incurred during 2008, including recovery of incentives and lost margins, for all energy efficiency programs through the conservation charge component of the LDAF (Exh. DMB-1, at 12-13). The Department finds

this request to be reasonable and consistent with Department practice. <u>See D.T.E./D.P.U.</u> 04-39, at 10.

#### V. ORDER

Accordingly, after due notice, opportunity for comment, and consideration, it is

ORDERED: That, except for the micro-combined heat and power pilot initiative, the
air sealing measure, the high efficiency storage water heating rebate program, the combined
high efficiency space conditioning and water heating units program, the proposed change in its
low-income eligibility criteria, proposed C&I budget increases, and the proposed budget
increases for the period of May 1, 2009, through December 31, 2009, the gas energy
efficiency Revised Plan submitted by Bay State Gas Company is APPROVED; and it is

<u>FURTHER ORDERED</u>: That Bay State Gas Company shall file a compliance filing within seven days of the date of this Order, as discussed in Section IV (B) above; and it is

<u>FURTHER ORDERED</u>: That Bay State Gas Company shall comply with all other directives contained in this Order.

By Order of the Department,
<u></u>
Paul J. Hibbard, Chairman
/s/
W. Robert Keating, Commissioner
2,
/s/
Tim Woolf, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within 20 days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of 20 days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971.